

IN THE UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF NEBRASKA

STEVE KAUFMAN,)	
)	
Plaintiff,)	7:06CV5017
)	
v.)	
)	
THE WESTERN SUGAR COOPERATIVE)	ORDER
INC.,)	
)	
Defendant.)	
_____)	

This matter is before the Court on defendant's statement of appeal (Filing No. 95), appealing the order of the magistrate judge (Filing No. 87) denying defendant's motion (Filing No. 84) to take the trial deposition of an expert witness out of time. Plaintiff has not responded to defendant's statement of appeal as the time for response has not expired. However, the Court notes that no objections were filed by the plaintiff to defendant's original motion, although that motion did provide that "counsel for the plaintiff objects to this motion." No reasons or basis for this objection was stated. The Court finds that in the interests of justice, defendant should be permitted to preserve Dr. Barbara Widom's testimony for trial.

Considering the circumstances which gave rise to this problem, the Court finds the appeal should be granted and the magistrate judge's order should be vacated. Accordingly,

IT IS ORDERED that the order of the magistrate judge is vacated and set aside; defendant's motion to take the trial deposition of an expert witness out of time (Filing No. 84) is granted.

DATED this 20th day of September, 2007.

BY THE COURT:

/s/ Lyle E. Strom

LYLE E. STROM, Senior Judge
United States District Court